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BY THE COMPTROLLER GENERAL ORIGINAL

Report To The Congress

OF THE UNITED STATES

Further Improvements Are Needed In Amtrak's Passenger Service Contracts, But They Won't Come Easily

Amtrak has made significant improvements in its contracts with other railroads for services that are essential for operating Amtrak trains. Further revisions in contract provisions are needed to provide better incentives for the railroads to operate the trains on time and to hold the line on costs.

The railroads have generally not agreed to Amtrak's proposals for changing the contracts and Amtrak has limited options in this situation. The legally prescribed process for resolving such disputes--taking them to the Interstate Commerce Commission--has not been used frequently. Amtrak should use this process more to see if it works satisfactorily. If it doesn't, Amtrak should seek congressional guidance and action.

Amtrak's standardized payments for certain services have been inequitable in some cases and Amtrak needs to change its policy for revising these payments.

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COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

FURTHER IMPROVEMENTS ARE NEEDED IN AMTRAK'S PASSENGER SERVICE CONTRACTS, BUT THEY WON'T COME EASILY

D I G E S T

Even though Amtrak has now taken over direct operation of many of its functions, it still must obtain many services from other railroads. The railroads provide train and engine crews for all Amtrak trains, provide and maintain tracks, do routine inspection and servicing of equipment, and provide other services and facilities. The railroads charged Amtrak $305 million in fiscal year 1980, accounting for over one-fourth of Amtrak's operating expenses and 70 percent of its operating income. (See p. 2.)

The operating railroads are Amtrak's sole source for most of the services, and negotiating better service provisions into the contracts is not easy. Provisions for incentives to the railroads to improve service and restrain costs are particularly important to Amtrak's success, but are also difficult to negotiate. Amtrak has devoted considerable efforts to such negotiations and has made progress in improving the contract provisions. Additional improvements are needed, but it does not seem that the railroads will readily agree to the changes.

CONTRACT PROVISIONS NEED FURTHER REVISION

Amtrak's original passenger service contracts with the railroads provided for reimbursing the railroads' costs and did not contain incentive provisions to minimize costs or improve railroads' performance. They also did not contain clear descriptions and definitions of the services the railroads were to provide. In addition, the original agreements did not provide a means for correcting deteriorating service. The compensation provisions of the original contracts could be renegotiated and

amended anytime after July 1, 1973, but five railroads continue to operate under these agreements. (See p. 4.)

A June 1977 GAO report pointed out that the first major group of amendments to most of the original agreements, undertaken in 1974, had serious shortcomings, such as questionable incentive provisions and unrealistic fixed prices. Although costly to Amtrak, these amendments resulted in little real improvements in on-time performance or maintenance. (See p. 7.)

The second major group of amendments starting in 1976 require more realistic improvements in train performance before incentive bonuses are paid. They also need revision however, in the areas of incentives for meeting intermediate point schedules, more effective penalties for poor performance, and fixed payments (called flat rates) for certain services. (See p. 8.)

Under the second amendment agreements, flat rates stay in effect for the life of the contract and are adjusted only for inflation and changes in the service provided. Because errors are sometimes made in setting flat rates, GAO believes that a mechanism is needed for changing the rates during the contract period under certain conditions. (See p. 10.)

OBSTACLES TO NEGOTIATING UPDATED AGREEMENTS

Amtrak has second amendment agreements with 14 railroads, but continues to operate under the original agreements with 5 railroads. Amtrak has noted the shortcomings of the original agreements, but believes it can operate satisfactorily under them and is not willing to change them if the cost is too high. Some of the railroads have not found the incentive provisions of the amended agreements attractive, apparently because they would have difficulty in meeting the performance standards necessary to earn the incentive bonuses. (See p. 15.)

Despite substantial efforts, Amtrak has not been able to obtain railroad consent on revisions to second amendment agreements to better encourage on-time performance, including arrivals at intermediate points. Many railroads believe that they are held accountable for delays that are beyond their control, such as Amtrak equipment failures, and do not want to accept additional risks unless they are well compensated. Amtrak believes that its proposed contract provisions are appropriate and continues to push for their adoption. (See p. 22.)

In addition to its efforts to negotiate better provisions into its contracts, Amtrak has sought relief in a few instances by going to court and to the Interstate Commerce Commission (ICC) to settle disputes with the railroads. It has also proposed and/or supported legislation to strengthen its position in dealing with the railroads. Legislation that would have required incentives for meeting intermediate point schedules and penalties for poor on-time performance has been considered by the Congress, but not adopted. (See pp. 25 to 28.)

GAO believes that Amtrak should have given the legislatively established process of taking disputes to ICC more of an opportunity to work before seeking additional legislative remedies.

In August 1980, an Amtrak consultant--Reebie Associates--made recommendations for devising more effective contract relationships with the railroads providing passenger services. A number of the consultant's findings give further support to GAO's conclusions. Amtrak officials have some misgivings about the consultant's report, but assured GAO that they will consider the report thoroughly and use it to try to make improvements in passenger service contracts. (See p. 28.) The report seems to provide additional alternatives for Amtrak to consider in trying to improve its contracts, including

long-term actions such as the possibility of introducing competition into its present sole-source arrangement with each of the railroads. (See p. 30.)

RECOMMENDATIONS TO THE PRESIDENT OF AMTRAK

Amtrak should try to improve its passenger service contracts by revising its policy regarding flat rates to provide a mechanism for changing them during a contract period under certain circumstances. (See p. 14.) In addition, Amtrak should try resolving some of its current disputes with railroads by going to the ICC for arbitration. (See p. 32.)

If taking additional cases to ICC for resolution proves unsuccessful, Amtrak should seek congressional guidance and action regarding its dealings with other railroads. (See p. 32.)

COMMENTS FROM INTERESTED PARTIES

Amtrak and the Department of Transportation generally did not agree with GAO. Amtrak said that differences between flat rates and the railroads' costs of providing the services are acceptable as long as the aggregate payments are reasonable, and that a mechanism for changing them is not needed. GAO believes that it is not practicable to determine, with certainty, whether the aggregate payments are reasonable and that each flat rate should be established as closely as possible to the railroad's incremental costs. (See p. 13.)

Amtrak said that it cannot determine that the cost and effort of taking cases to the ICC would be justified by the results and that ICC could require higher payments to the railroads than Amtrak believes are reasonable. GAO believes that this lack of experience and knowledge regarding ICC's resolution of disputes with operating railroads is exactly the reason Amtrak should take additional cases before the ICC. (See p. 30.)

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ABBREVIATIONS

Amtrak	National Railroad Passenger Corporation
AT&SF	Atchison, Topeka and Santa Fe Railway Company
Conrail	Consolidated Rail Corporation
DOT	Department of Transportation
GAO	General Accounting Office
ICC	Interstate Commerce Commission
ICG	Illinois Central Gulf Railroad